

REMARKS

REQUIREMENT UNDER PCT RULE 13.1

Applicant again requests reconsideration of the requirement for restriction in view of the asserted basis for the requirement being PCT Rule 13.1 (see page 2 of the Office Action dated March 24, 2004). In responding to Applicant's comments the Examiner stated that this is not "a restriction but an election of species." However, this is not a relevant response. Either the requirement is based on PCT Rule 13.1, and is therefore improper as noted or the requirement is based on something else and this should be stated in a new corrected requirement.

SPECIFICATION ISSUES

The specification has been objected to as failing to provide antecedent basis for the claimed subject matter. Applicant notes that each of the term "sliding ring" and "ball race" have clear and proper antecedent basis in the specification. It should also be apparent that the sliding face of the sliding ring is the face or surface of the sliding ring which slides. This is mentioned throughout the specification with the term "surface", namely the term "surface" is clearly the face that is sliding (see for example page 4 line 10). The application makes it absolutely clear that the axial leg (6.3) at least moves relative to the race 5. Further, the specification indicates at page 8 lines 5 - 8 this is relative sliding, namely the sliding ring slides relative to the ball race. 37 CFR 1.75(d)(1) should be considered to have been met with regard to the term sliding ring and ball face being present in the specification. That a face of the sliding ring slides relative to

the ball race to result in this being referred to as a "sliding face" is not required by the rule. Nevertheless, this term has been added as indicated.

35 USC § 112

Claims 1, 5, 9, 10, 12, 14, 15, 17, 20, 23 and 24 - 27 have been rejected as failing to comply with the written description requirement of 35 USC § 112, first paragraph. The rejection takes the position that the claims contain subject matter which was not described so as to reasonably convey the subject matter to one of ordinary skill in the art.

Applicant does not understand this rejection. Is the Examiner stating that it is unclear that the sliding ring 6 and ball race 5 form a sliding pair, namely with the sliding ring sliding relative to the ball race 5? This is absolutely clear from the specification and no further comment should be necessary. The specification clearly mentions that the sliding ring 5 is slidably mounted in the ball race. In Figure 1 you can see that the sliding ring 6 is mounted in the ball race 5. In discussing the same figure it is mentioned that the two form a sliding pair, namely after the sliding ring is inserted a sliding pair is formed with relative sliding between the sliding ring 6 and ball race 5.

Certainly the person of ordinary skill in the art, such as an automotive engineer in considering the written description, can understand that ring 6 slides relative to race 5, in a mounted state. Of course, 35 USC 112 relates to the entire disclosure such that the person considers Figure 1 and the description of Figure 1 together. Applicant can also refer to other passages and other embodiments but the above should be sufficient. Further, Applicant wishes

to point out to the Examiner that possibly he is somehow misreading the text. Slidingly inserted in context means that the structure is inserted to slide. This is the apparent meaning when considering that after insertion the sliding pair is formed between the ball race 5 and the sliding ring 6 (one element of the sliding pair is the ball race and the other element of the sliding pair is the sliding ring 6). The Examiner may also somehow misinterpret the specification with regard to the "sliding ring being slidingly mounted". This certainly requires that the structure be mounted such that it can slide. This is absolutely clear when considering some of the passages as noted above.

It is Applicant's position that the material is quite clear and that the entire disclosure supports Applicant's position that the person of ordinary skill in the art is provided with all information needed to make and use the invention as claimed. Certainly, all that is really required is the passage at page 8 lines 5 - 8, and a consideration of Figure 1 where it can be appreciated that the mounted and inserted structure 6 slides relative to the other piece 5.

Reconsideration of the rejection under 35 USC 112, first paragraph is requested.

35 USC § 102

Claims 1, 5, 9, 10, 14, 17, 20 and 24 - 27 have been rejected as being anticipated by Gardner (U.S. 2,197,037). In making this rejection the Examiner is taking the position that each element specified and arranged as set forth in the claims is disclosed by Gardner. This is not the case. With regard to each of the independent claims, the claims specifying that there is a ball race fixed to the pivot and a sliding ring receiving an edge of the bellows and the sliding

ring is mounted, connected or positioned relative to this ball race such that it slides relative to the ball race. This structural feature is clearly not present in the Gardner reference.

The rejection includes the specific error in stating that the structure 27 (incorrectly referred to as a sliding ring) is slidingly mounted in the "ball race 26" (structure 26 is not a race). In fairly reading Gardner, there is no possible interpretation that Gardner discloses a structure in which part 27 moves relative to part 26.

It should be clear that the upper ring 23 of the structure taught by Gardner is secured to the stud 12. That is, it is not meant to rotate relative to stud 12 and is press fit on. This can be appreciated from the passage at column 2 lines 19 - 21 which reads as follows:

"The upper ring 23 is adapted to be forced down over the tapered stud 12 into pressed-fit engagement with the same [12] at a point a short distance above the upper surface of the head 10."

From this it is at least clear that the structure 23 does not move relative to stud 12. It should also be quite clear from the remainder of the text that each section of ring 23 (section 27 and 26) is clamped in position and is also fixed. This can be appreciated from the following passage at column 2 lines 27 - 36:

"The ring 23 is made in two inter-fitting sections, 26 and 27, on the order of a grommet. The section 26 is characterized by a top flange 28 and a downwardly extending tubular neck 29, while the section 27 is characterized by a bottom flange 30 and an upwardly extending tubular neck 31. These sections are sleeved together as far as the neck 31 will permit, with the edge of the neck 29 spun outwardly against the bottom flange 30 to secure the sections together."

Bearing in mind that this entire structure is pressed down on the stud 12, it can be appreciated

that the entire structure will be trapped or wedged in position and none of it will move relative to stud 12. Further, from the discussion above, it can be appreciated that the ring 23, which is secured in position as noted in the first cited passage, is made of two inter-fitting sections 26 and 27, on the order of a grommet. It can be appreciated from the mention of the term grommet that the two parts are forced together with both acting on each other to maintain each other in position, with the applied press fit. There is not part of the ring 23 that moves relative to itself. Any piece which is trapped in the order of a grommet will arrest or prevent movement. Further, it is absolutely clearly stated that the sections 26 and 27 of the single ring 23 are secured together. The sections which are secured together are not rotatable relative to each other, unless this is stated. The Examiner is certainly reading something into this which does not exist. The person of ordinary skill in the art in considering the reference would view the upper ring 23 to be a structure which is forced down on the stud 12 and is press fit into engagement. As such, the entire ring is maintained in engagement and does not move or rotate relative to the stud 12. Further the two sections that form ring 23 inter-fit in the order of a grommet. The Examiner should again consider the nature of a grommet and what this entails. Finally, these pieces are secured together. They will define a gap (that receives the leather jacket 19), but there is no relative rotation.

The rejection is based on an erroneous interpretation of the Gardner reference. As such, reconsideration of the rejection is requested.

Claim 12 has also been rejected as being obvious based on Gardner in view of Japanese Patent JP-9-250637.


Is the interpretation of the Gardner reference is not correct, it is requested that this obviousness rejection also be reviewed. Clearly Gardner does not suggest features of the invention as stated in the obviousness rejection.

Claim 23 has also been rejected as being obvious based on Gardner in view of Unterstrasser. However, the Gardner reference clearly does not teach the features for which it is cited. Clearly there is no basis for a position as to obviousness in view of the teachings of the references wherein the references fail to teach and fail to suggest the combination of features as claimed.

Applicant respectfully requests that the Examiner consider discussing this case with Applicant's representative at an early time such that issues may be resolved. Applicant has refiled this application in an attempt to resolve issues without resorting to appeal. However, in view of the fact that the Gardner reference clearly does not teach what it has been cited for, a discussion as to the claims and the cited art would be useful to advance this case and to remove issues from this proceeding.

Respectfully submitted
for Applicant,

By:


John James McGlew
Registration No. 31,903
McGLEW AND TUTTLE, P.C.

JJM:jj/tf
71094.8